

Before the FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

MM Docket No. 87-268

NOV 21 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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COMMENTS OF Larry Morton
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Kaleidoscope Affiliates is very concerned about the outcome of the Sixth Further Notice of Proposed Rule Making of the FCC regarding Advanced Television or DTV. Kaleidoscope Affiliates has made a commitment to providing quality programming utilizing community broadcast stations. Kaleidoscope Affiliates provides millions of households with local community programming that is unavailable from any other sources. In many markets, we provide disability programming for those people who would otherwise not have access to this type programming from other sources. More than 150 investors have contributed in excess of \$6,000,000 to help provide specialized programming via the community broadcast stations.

The current ATV/DTV proposal as outlined in the Sixth Further Notice of Proposed Rule Making of the FCC would eliminate a majority of the current low power stations. Many of these stations would be eliminated needlessly. Digital television has a future and Kaleidoscope Affiliates would like to participate in the future of digital television, but we do not believe that the method the FCC is proposing in the Sixth Further Notice is in the best interest of the people of this country. The FCC, in the process of allocating the digital spectrum, has completely ignored low power television. Because LPTV was ignored, the majority of the LPTV stations will either be eliminated, or in the best case, relocated to new stations. A relocation of a LPTV usually means completely rebuilding, usually at a cost in excess of the original investment.

In addition to the new construction costs, many of these stations have long term leases on tower space and equipment that will no longer be useful. The probable result for many LPTV stations will be a bankruptcy with a large number of people out of work. In most television markets, small businesses, minority groups, and individuals cannot afford to advertise on full power television stations. Low power T.V. is the only affordable voice they have in the community. Without LPTV, there will be no affordable access for these parties. The Sixth Further Notice fails to adequately protect the interest of these smaller groups in an equitable manner and it is not in the best interest of the people.

The process the FCC is pursuing is giving away billions of dollars to large broadcast organizations for free. In addition, there is not a provision requiring the full power stations to show the exact same programming. This, in effect, gives the full power station a free second channel without going through a competitive process. If this is the FCC's goal that is their choice. Unfortunately, most of the give away is at the expense of low power television. Low power television was created as a secondary service to the existing full power spectrum. It was never intended to be secondary to new services that were created. This does not mean that I believe low power T.V. shouldn't be secondary to digital television, but I do believe that in the process of deciding this secondary status, low power television must be considered and that the procedures must be taken to minimize the financial impact on

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low power television. In those instances where they must be either relocated or eliminated, the parties benefiting from the reallocation of the spectrum should adequately compensate the low power television owners for this relocation.

So far, the FCC has completely ignored other alternative solutions that would take into consideration low power television during the development of digital television. Computer programs and models could have been developed that would factor in low power television stations so that they would not be impacted unless it was an absolute necessity. Some of our stations will have their channel taken from them even though there are numerous open channels in the market. The answer may be for the individual LPTV to hire an engineer, and prove that other channels are open and useable on a case by case basis. This will be tremendously expensive for LPTV owners. The groups who are gaining the spectrum should pay these costs.

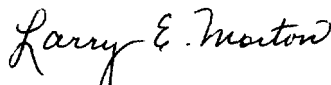
Another alternate solution would be rather than try to sign a specific channel to each full power station, to identify the open channels in the market, and allow full power stations to apply for them on a first come, first serve basis. This is probably the best solution since many of the full power stations do not want to convert to digital in the immediate future. That would mean that only open channels would be initially used. Later, as the conversion becomes a reality and more stations begin converting, low power stations may be displaced or eliminated at that time. This would only happen as a channel is actually needed. Under the current procedure, there may be 10 open channels, but if a low power happens to be on a channel that has been assigned to a full power and that one full power wants to convert to digital, the low power will be eliminated. Obviously, many low power television stations will need to be either relocated or potentially eliminated. If this happens, the group benefiting from taking over the channel should be willing to compensate the low power television owner in a fair and equitable manner for either the purchase of the channel, or the cost to relocate to a new channel.

In addition, the FCC has failed to recognize numerous technical modifications that would increase spectrum space that would result in further minimizing the long term effect to low power television. The Community Broadcasting Association has presented technical proposals which would help preserve the spectrum space. Kaleidoscope Affiliates endorses the consensus technical proposal as submitted by the Community Broadcasting Association and we urge that the FCC consider these technical proposals.

Being secondary does not mean that you should not be treated in a fair and equitable manner. The Six Further Notice does not treat low power television stations as a class in a fair and equitable manner. For this reason, this petitioner respectfully requests that the Commission revise the rules and policy proposed in the Sixth Further Notice by incorporating the proposals as written above and to help preserve low power broadcasters who serve the local public interest.

Respectfully submitted,

KALEIDOSCOPE AFFILIATES, LLC



Larry E. Morton
President